THE HON'BLE MR JUSTICE D. APPA RAO

W.P.No.10028 of 2006

Dated : 23rd May 2006

Between:

M/s. Manju Omkaram Towers Welfare Association,

Secunderabad

.....Petitioner.

And

The Government of Andhra Pradesh,

Rep. by its Secretary, Municipal Administration Department,
Secretariat, Hyderabad.

.....Respondents.

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W.P.No.10028 of 2006

ORDER:

The petitioner seeks a writ of Mandamus declaring the notices dated 6-5-2006 and 18-5-2006 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act')
by the respondent Nos. 2 and 3, as illegal and arbitrary.

With the consent of both the parties, the matter is taken up for final disposal.

Heard the learned counsel for the petitioner as well as the learned Standing counsel appearing for the respondents.

The learned counsel for the petitioner submits that the building bearing No.11-1-3 to 6 (G3), Seethafalmandi, Secunderabad was constructed after obtaining permission from the Municipal Corporation of Hyderabad. When there were some deviations, he had applied for regularization as per G.O.Ms.No.419, Municipal Administration & Urban Development (M1) (M.A.), dated 30th July 1998. However, this Court struck down the said G.O., as ultra vires of the Act. Later, a notice dated
18-2-2000 was issued to the petitioner under Section 636 of the Act. On a Writ Petition No.3561 of 2000, dated 11-9-2000 filed by the petitioner, this Court directed the Municipal Corporation to issue a fresh notice under Section 452 of the Act, pointing out the various defects in the construction made by the petitioner, within a period of two weeks from the date of receipt of copy of that order. The petitioner therein shall file a reply to the notice issued by the respondents-Corporation under Section 452 of the Act and the Corporation, after examining the explanation given by the petitioner, shall issue notice under Section 636 of the Act and take appropriate steps in accordance with law. Till such time, there shall be an order of stay of demolition.

The Municipal Corporation, admittedly, did not issue any notice as directed above. The impugned notices dated 6-5-2006 and 18-5-2006 were issued under Section 636 of the Act. Now, the grievance of the petitioner is that without issuing any notice under Section 452 of the Act, again the very same interaction of procedure was made.

The learned Standing counsel for the Municipal Corporation, while relying on a decision of this Court in W.P.No.4471 of 2006, contended that the same would be considered as a show cause notice under Section 452 of the Act and call for explanation of the

petitioner, so that the same would be considered and pass appropriate orders.

This Court, considering the above submission and decision in the writ petition, the impugned notices dated 6-5-2006 and 18-5-2006 are directed to be treated as show cause notices permitting the petitioner to file a representation within 15 days from the date of receipt of a copy of this order. Till such representation is considered and appropriate orders thereon are passed and communicated to the petitioner, the respondents shall not remove or demolish the premises of the petitioner.

The writ petition is disposed of with the above observations. There shall be no order as to costs.

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(D. APPA RAO, J)

Date: 23rd May 2006.

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